



H.C.P.(MD) No.684 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.06.2024

CORAM:

**THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

H.C.P.(MD) No.684 of 2024

Balamurugan

... Petitioner

-VS-

State rep. by

1.The Superintendent of Police,
Madurai District,
Madurai.

2.The Inspector of Police,
Palamedu Police Station,
Madurai District.

3.Vimaladevi

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of habeas corpus directing the respondents to produce the person or body of the detenu namely Amuthan, aged 1 year, son of Balamurugan before this Court and handover the custody to the petitioner.



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For Petitioner :Mr.M.Ramu
For R1 & R2 :Mr.RMS.Sethuraman
Additional Public Prosecutor

ORDER

[Order of the Court was made by A.D.JAGADISH CHANDIRA, J.]

This Habeas Corpus Petition has been filed by the father of the detenu seeking to produce the person or body of the petitioner's son namely Amuthan, aged 1 year, before this court and handover the custody to the petitioner.

2. The case of the petitioner is that he married one Meiyyammal, daughter of Mani, Madhukarapatti in the presence of elders and relatives. Since they were not blessed with child, the petitioner, with the permission of his wife Meiyyammal, married the third respondent on 10.06.2022. Out of the wedlock, the third respondent given birth a child namely Amuthan on 05.03.2023.



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3. The further case of the petitioner is that after the birth of the child, the third respondent has not permitted the petitioner to see the child and the third respondent and her relatives are assaulting him. Therefore, the petitioner has given a complaint before the second respondent on 04.06.2024. Since, the second respondent police has not taken any action on the petitioner's representation, he has filed the present habeas corpus petition.

4. Today, when the matter is taken up for hearing, the learned Additional Public Prosecutor appearing for the respondents 1 & 2 would submit that the matter relates to the custody of the child. The third respondent is the second wife of the petitioner. Due to matrimonial discord, they are living separately and the child is with the custody of the third respondent. Based on the complaint given by the petitioner, an enquiry had been conducted and the third respondent appeared for an enquiry and has stated that due to harassment of the petitioner, she is living separately. He would further submit that the child is in the custody of the mother and not in the illegal custody of anybody. The second respondent has advised the petitioner to approach the appropriate forum seeking



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custody of the child, whereas, suppressing the same, the petitioner has filed the present habeas corpus petition.

5. The third respondent is the second wife of the petitioner. On account of matrimonial discord, she is living separately along with child. If at all the petitioner is aggrieved, he has to approach the appropriate forum seeking custody of the child and this not the forum.

6. In view of the above, this habeas corpus petition is dismissed granting liberty to the petitioner to approach the appropriate forum seeking custody of the child.

[A.D.J.C., J.] [K.R.S., J.]
13.06.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To:

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Madurai.
- 2.The Inspector of Police,
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Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
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AND
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